

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF NORTH CAROLINA**

**Civil Action No. 4:10-CV-21-BO**

**LESLIE LINCOLN,**

**Plaintiff,**

**vs.**

**CITY OF GREENVILLE POLICE  
DEPARTMENT, PITT COUNTY,  
JOSEPH M. SIMONOVICH, IN HIS  
INDIVIDUAL AND OFFICIAL  
CAPACITIES, DAVID R. "RICKY"  
BEST, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITIES, DISTRICT  
ATTORNEY WILLIAM CLARK  
EVERETT, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITIES,  
KIMBERLY ROBB, IN HER  
INDIVIDUAL AND OFFICIAL  
CAPACITIES, BRENDA BISSETTE,  
IN HER INDIVIDUAL AND  
OFFICIAL CAPACITIES, AND THE  
NORTH CAROLINA STATE  
BUREAU OF INVESTIGATION,**

**Defendants.**

**MOTION FOR EXTENSION  
OF TIME TO FILE  
RESPONSIVE PLEADINGS  
Fed. R. Civ. P. 6(b)**

**NOW COME** Defendants, Hon. William Clark Everett, District Attorney for the 3A Prosecutorial District and Kimberly Robb, Assistant District Attorney for the 3A Prosecutorial District pursuant to Rule 6(b) of the Federal Rules of Civil Procedure by and through counsel, and move this Court to extend the time for the Defendants to file their responsive pleadings and/or dismissal motions. In support of their motion, Defendants show the Court the following:

1. Upon information and belief, defendants received service of plaintiff's summonses and complaints on or about June 18, 2010.
2. Defendants are therefore required to respond in some fashion no later than July 9, 2010.
3. Plaintiff's complaints are far reaching, 108 paragraph compendiums of accusations against public prosecutors concerning their alleged conduct relating to an eight year old murder case.
4. The above referenced murder occurred in 2002, and alleged events relating to its investigation took place from 2002 through 2007.
5. The North Carolina Attorney General's Office routinely handles civil lawsuits for District Attorneys and their Assistants. The lawsuits must first be brought to the attention of the State of North Carolina Administrative Office of the Courts, which agency assesses the case then, in most cases, forwards the case on to the Attorney General's Office. The Attorney General's Office then assesses whether this is a case which we may handle.
6. Undersigned counsel became aware of this case June 29, 2010, and received some of the case file today, June 30, 2010.
7. Undersigned counsel has yet to receive a complete file concerning this matter which, upon information and belief, contains Bar complaints plaintiff (or someone acting on plaintiff's behalf) filed against defendants which resulted in findings by the North Carolina State Bar of "no probable cause."
8. Undersigned counsel has yet to review the factual allegations in the complaints with the defendants. That, and receipt and review of the entire file are essential to evaluate

defendants' strategies in the case at bar.

9. Undersigned counsel is currently completing the State's Court of Appeals brief in State v. Tyree Shajuan Lee, No. COA 10-381 which is due July 9, 2010.
10. Undersigned counsel is scheduled for a motion hearing in Onslow County Superior Court in the matter of McCallister v. District Attorney Dewey Hudson, Assistant District Attorney Ernie Lee, et. al., No. 09 CVS 4995 on July 6, 2010.
11. Undersigned counsel is scheduled for trial in Hoke County Superior Court in State v. Newson (aka Newsom), Nos. 08 CRS 50796 and 09 CRS 985 the week of July 12, 2010.
12. The above referenced facts constitute good cause required under Rule 6(b) for an extension of time for filing responsive pleadings and/or dismissal motions.

### **RELIEF REQUESTED**

Defendants respectfully request that the time for filing of responsive pleadings and/or dismissal motions be extended by 30 days to August 9, 2010.

Respectfully submitted this the 30<sup>th</sup> day of June, 2010.

ROY COOPER  
Attorney General of North Carolina

/s/ David J. Adinolfi II  
David J. Adinolfi II  
Special Deputy Attorney General  
N.C. Department of Justice  
9001 Mail Service Center  
Raleigh, N. C. 27699-9001  
(919) 716-6500  
N.C. State Bar #27169

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of Defendants' MOTION FOR EXTENSION OF TIME TO FILE RESPONSIVE PLEADINGS was filed in the United States District Court's CM/ECF filing system, and served upon the Plaintiff's attorney addressed as follows:

Kathryn P. Fagan  
Attorney at Law  
Manteo, North Carolina 27954

This the 30<sup>th</sup> day of June, 2010.

ROY COOPER  
Attorney General of North Carolina

/s/ David J. Adinolfi II  
David J. Adinolfi II  
Special Deputy Attorney General  
N.C. Department of Justice  
9001 Mail Service Center  
Raleigh, N. C. 27699-9001  
(919) 716-6500  
N.C. State Bar #27169